

D.B. CIVIL WRIT PETITION NO. 4977/2003
(Prakash Dangi Vs. The State of Rajasthan & Ors.)

DATE OF ORDER : 15.05.2006

HON'BLE MR. JUSTICE N.N.MATHUR
HON'BLE MR. JUSTICE MANAK MOHTA

Mr. P.K.Lohra for the petitioner.
Mr. R.S.Saluja for the respondents.
Mr. N.M.Lodha, Additional Advocate General.

The instant petition under the label of Public Interest Litigation has been filed seeking directions to the respondents to preserve and protect the old lakes, ponds and baoris of the walled city of Jodhpur namely; Gunglao Lake, Baiji Ka Talab, Fateh Sagar, Man Sagar, Gulab Sagar and other Baoris. An another direction has been sought to restrain the respondents from regularizing the illegal encroachments made by certain individuals on the banks of Gunglao Lake in the name of "New Barkuttullah Colony Kachi Basti".

At the initial stage, by issuing notice to the respondents, this Court has directed the respondent Municipal Corporation to take measures to clean Gunglao Lake, Baiji Ka Talab, Man Sagar, Fateh Sagar, Gulab Sagar and other Baoris in the city. It was reported that Gunglao Lake is for long used only as storage of city's dirty drainage water and not as a source of storing potable water and since the alternate drainage for carrying the city

sewerage out of the town has been provided, it has lost its utility as an open drainage storage. That is the primary reason for suggesting the closure of the Gunglao Lake as an open tank. Similar statements were made with respect to Baiji Ka Talab situated inside the city of Jodhpur near Ghoron-Ka-Chowk and Man Sagar which is situated at Mahamandir. The said tanks are not used as storage of potable water but are used for collecting overflow of city drainage water and sewerage water since long. They too have lost their utility as open drainage storage. This Court directed to furnish a report whether these three lakes viz., Gunglao Lake, Baiji Ka Talab and Man Sagar were at any time in the recent past served as a reservoir of potable water for supply of drinking water to the population around it or they have since inception were places identified as open drainage reservoirs. It was further admitted that Fateh Sagar and Gulab Sagar as traditional sources of supplementing the drinking water are the needs of the city. The Corporation was asked to prepare action plan for the said lakes and baoris. At one point of time, the Corporation expressed its difficulty in carrying out the project because of resources crunch. A scheme was also placed on record for regularization of *kachchi basti* but that does not specifically take into consideration about the encroachment around the public reservoir for potable water. Thus, this Court has given wide ranging interim directions by the order dated

27.07.2004. The interim directions are extracted as follows:-

- (i) Until further orders, no regularization of any sort shall take place around the existing reservoirs in Jodhpur by whatever name-called except with prior permission of the court.
- (ii) The respondents shall furnish to the court the nature and the user to which each of the reservoirs in the city is being put to use during last six decades so as to consider the question of continued utility of maintaining the individual tank or lake or the expediency of closure of such places which has fallen in disuse and which do not serve the purpose of storing potable water.
- (iii) Respondents shall further furnish the details about the drainage of sewerage water being carried out of the city which were otherwise finding refuge in the Gunglao Lake, Baiji Ka Talab and Man Sagar as stated by them.
- (iv) The Corporation shall place the project prepared by it for taking steps to clean Gunglao Lake, Baiji

Ka Talab, Man Sagar, Fateh Sagar, Gulab Sagar and other baoris in the city as per the directions contained in order dated 12.07.2004 before the next date of hearing.

(v) During the course of hearing, it was further revealed that in the city of Jodhpur at many places manholes are lying open on roads or are being tried to be closed by putting haphazard stone slabs on it rather than closing them with appropriate closing lids. Respondent Corporation/U.I.T. is directed to identify such manholes which are lying open on the city roads within its jurisdiction and close them all within a period of 15 days as it provides major accident hazards.

(vi) The Chief Executive Officer shall report about the compliance of the order.

Pursuant to the directions issued on 27.7.2004, two reports were placed before this Court stating that 17 encroachments were found to be in Gunglao Lake and they have been removed. However, 13 persons have again encroached in the area. The Court was not satisfied with the report and, as

such, a direction was given to submit a fresh report. It was reported on 15.12.2005 that the persons who had re-encroached in the area have been removed. Subsequently, it was reported that about 175 encroachments on the Ganglao Lake have been removed. A further compliance report has been submitted. It appears that the substantial compliance of the orders has been made. The respondent-Municipal Corporation is directed to carry out the directions given by this Court by the end of 30th November, 2006.

Accordingly, the Writ Petition stands disposed of.

(MANAK MOHTA),J.

(N.N.MATHUR),J.

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